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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,395	01/23/2004	Jean Challenger	23-0336	8992

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EXAMINER	
LEUNG, RICHARD L	
ART UNIT	**PAPER NUMBER**
3744	

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/764,395	CHALLENGER, JEAN	
	Examiner	Art Unit	
	Richard L. Leung	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 November 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7,9-14 and 16-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7,9-14 and 16-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *23 January 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

2. Claims 1 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5345784 (Bazemore et al.). Bazemore et al. disclose a food serving container comprising an exterior bowl member 16 for being positioned on a support surface, a cooling member, water, selectively positioned against an interior surface of said exterior bowl member 16, said cooling member being adapted for being frozen, and an interior bowl member 12 being selectively coupled to said exterior bowl member 16 to form a chamber 18 between said interior bowl member 12 and said exterior bowl member 16 such that said cooling member is positioned in said chamber 18 between said interior bowl member 12 and said external bowl member 16 when said cooling member is positioned against said external bowl member 16 and said interior bowl member 12 is coupled to said exterior bowl member 16. Said interior bowl member 12 is substantially concave and adapted for receiving food articles, and said cooling member is adapted for cooling the food articles in said interior bowl member 12 to inhibit the spoiling of food articles placed in said interior bowl member 12. Bazemore et al. further disclose a substantially planar lid member 14 removably mountable on said bowl members and having a serving aperture 50 extending through said lid member such that contents of said interior bowl member 12 is accessible without removing any portion of said lid member 14 from mounting on said bowl members, as required by claim 1. Said lid

member 14 includes a hook portion 40 extending downwardly from a perimeter edge of said lid member 14, said hook portion selectively extending over a peripheral edge 20 of said interior bowl member 12 to secure said lid member 14 to said interior bowl member 12, as required by claim 9.

Claim Rejections - 35 USC § 103

3. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5345784 (Bazemore et al.) in view of US 3715895 (Devlin). Bazemore et al. disclose a food serving container comprised of an exterior bowl member 16, an interior bowl member 12, a cooling member located in between said bowl members 16 and 12, and a lid member 14, said lid member 14 having a serving aperture 50, as already described above with regards to claim 1. Bazemore et al. fail to disclose an exterior bowl member containing a closed interior space for insulating said cooling member, said interior space containing an insulating fluid, and said insulating fluid being substantially an inert gas as further required by said claims 2-4. Devlin teaches a similar serving container with an interior bowl member, inner cup 12, and external bowl member, outer receptacle 14, and a cooling member, liquid refrigerant 18, located there between. Said external bowl member 14 taught by Devlin further includes a peripheral wall 36 that defines an insulating interior space 42 in which is an insulating fluid, the insulating fluid being an inert gas, specifically air as described in column 2, line 31. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the container disclosed by Bazemore et al. to include an external bowl member having an insulating interior space as taught by Devlin in order to insulate the enclosed cooling

member and prevent heat transfer with the ambient environment, thus allowing the cooling member to stay cold longer.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 5345784 (Bazemore et al.) in view of US 4981234 (Slaughter). Bazemore et al. disclose a food serving container comprised of an exterior bowl member 16, an interior bowl member 12, a cooling member located in between said bowl members 16 and 12, and a lid member 14, said lid member 14 having a serving aperture 50, as already described above with regards to claim 1. Bazemore et al. further disclose that said external bowl member 16 includes a lip member 30 extending from a top edge of said external bowl member 16, said lip member 30 being received by an indentation 32 located on the periphery of said interior bowl member 12 so as to secure said interior bowl member 12 to said exterior bowl member 16. Bazemore et al. fail to disclose that said lip member extends inwardly from said exterior bowl member, as required by claim 5. Slaughter teaches a related container with an external bowl member 11, an internal bowl member 10, and a gelatinous cooling member 30 located there between. Slaughter teaches that said external bowl member 11 has a lip member 21 that extends inwardly from a top edge of said external bowl member 11 that is received by an indentation defined by 22 and 23 located on a peripheral edge of said internal bowl member 10 to selectively secure said interior bowl member 10 to said external bowl member 11. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the lip member disclosed by Bazemore et al. to extend inwardly as taught by Slaughter in order to provide an alternative means of securing

said internal and external bowl members, such a modification being a simple matter of design choice to one skilled in the art.

5. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5345784 (Bazemore et al.) in view of US 5005374 (Spitler). Bazemore et al. disclose a food serving container comprised of an exterior bowl member 16, an interior bowl member 12, a cooling member located in between said bowl members 16 and 12, and a lid member 14, said lid member 14 having a serving aperture 50, as already described above with regards to claim 1. Bazemore et al. do not disclose that said cooling member is comprised of a perimeter wall that defines a plurality of compartments, including wall compartments arranged radially around a base compartment, each containing a gelatinous compound adapted for freezing, as required by said claims. Spitler teaches a flexible thermal wrap that is used as a cooling member in a cooling jacket consisting of a perimeter wall that defines a plurality of compartments, including wall compartments 60 radially positioned around a base compartment 60B, each compartment containing a chemical refrigerant, that may be a gelatinous compound, adapted for being frozen and used for chilling. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the container disclosed by Bazemore et al. to include a cooling member as taught by Spitler such that the walls and base of said cooling member are nested against the walls and base of said exterior bowl member respectively, as indicated by said claims, so that there is the added convenience in having an easily removable, self-contained cooling member.

6. Claims 10-13 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5345784 (Bazemore et al.) in view of US 181909 (Chinnock). Bazemore et al. disclose a food serving container comprised of an exterior bowl member 16, an interior bowl member 12, a cooling member located in between said bowl members 16 and 12, and a lid member 14, said lid member 14 having a serving aperture 50, as already described above with regards to claim 1. Bazemore et al. do not disclose a means for selectively closing said serving aperture on said lid member, said means having a closed position and an open position as broadly recited by claims 10 and 11, and Bazemore et al. do not disclose the particular cover assembly recited by claims 12 and13, specifically one comprising of nested hemispherical members, or a cover member that protrudes outwardly from the plane of said lid member as recited by claim 22. Chinnock teaches a cover assembly for an aperture, cap A, that protrudes outwardly and is movable between a closed position and an open position, said open position permitting access through said aperture and said closed position selectively limiting access through said aperture. Cap A comprises a dome member b and a shell member a, said dome member b being positioned over a portion of an aperture, said shell member a being pivotally coupled such that said shell member a is for selectively covering the portion of said serving aperture not covered by said dome member b, said shell member a being nested within said dome member b to permit access to said aperture when said shell member a is pivoted. Said dome member b and shell member a are substantially hemispherical in shape, said shell member a having a radius less than a radius of said dome member b such that said shell member is pivotable inside

said dome member b when said shell member a is pivoted. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the lid member disclosed by Bazemore et al. with the cover assembly taught by Chinnock in order to provide a means for closing the serving aperture on said lid member such that undesirables (e.g. dust, germs, insects, spiders, etc.) would be prevented from contaminating the contents of the interior bowl member when the aperture is not in use. While any suitable cap known in the art (e.g. detachable flap or plug) could have been used for this purpose, Chinnock expressly teaches that the shell and dome covering offers the additional advantage of obviating the chance of misplacing a removable cap (see paragraph 7).

7. Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5345784 (Bazemore et al.) in view of US 3715895 (Devlin), US 4981234 (Slaughter), and US 5005374 (Spitler). Bazemore et al. disclose a food serving container comprising an exterior bowl member 16 for being positioned on a support surface, a cooling member, water, selectively positioned against an interior surface of said exterior bowl member 16, said cooling member being adapted for being frozen, and an interior bowl member 12 being selectively coupled to said exterior bowl member 16 to form a chamber 18 between said interior bowl member 12 and said exterior bowl member 16 such that said cooling member is positioned in said chamber 18 between said interior bowl member 12 and said external bowl member 16 when said cooling member is positioned against said external bowl member 16 and said interior bowl member 12 is coupled to said exterior bowl member 16. Said interior bowl member 12

is substantially concave and adapted for receiving food articles, and said cooling member is adapted for cooling the food articles in said interior bowl member 12 to inhibit the spoiling of food articles placed in said interior bowl member 12. Said external bowl member 16 includes a lip member 30 extending from a top edge of said external bowl member 16, said lip member 30 being received by an indentation 32 located on the periphery of said interior bowl member 12 so as to secure said interior bowl member 12 to said exterior bowl member 16. Bazemore et al. further disclose a substantially planar lid member 14 removably mountable on said bowl members and having a serving aperture 50 extending through said lid member such that contents of said interior bowl member 12 is accessible without removing any portion of said lid member 14 from mounting on said bowl members. Said lid member 14 includes a hook portion 40 extending downwardly from a perimeter edge of said lid member 14, said hook portion selectively extending over a peripheral edge 20 of said interior bowl member 12 to secure said lid member 14 to said interior bowl member 12. Bazemore et al. fail to disclose an exterior bowl member containing a closed interior space for insulating said cooling member, said interior space containing an insulating fluid, and said insulating fluid being substantially an inert gas. Devlin teaches a similar serving container with an interior bowl member, inner cup 12, and external bowl member, outer receptacle 14, and a cooling member, liquid refrigerant 18, located there between. Said external bowl member 14 taught by Devlin further includes a peripheral wall 36 that defines an insulating interior space 42 in which is an insulating fluid, the insulating fluid being an inert gas, specifically air as described in column 2, line 31. It would have been obvious

to one of ordinary skill in the art at the time the invention was made to modify the container disclosed by Bazemore et al. to include an external bowl member having an insulating interior space as taught by Devlin in order to insulate the enclosed cooling member and prevent heat transfer with the ambient environment, thus allowing the cooling member to stay cold longer. Bazemore et al. fail to disclose that said lip member extends inwardly from said exterior bowl member. Slaughter teaches a related container with an external bowl member 11, an internal bowl member 10, and a gelatinous cooling member 30 located there between. Slaughter teaches that said external bowl member 11 has a lip member 21 that extends inwardly from a top edge of said external bowl member 11 that is received by an indentation defined by 22 and 23 located on a peripheral edge of said internal bowl member 10 to selectively secure said interior bowl member 10 to said external bowl member 11. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the lip member disclosed by Bazemore et al. to extend inwardly as taught by Slaughter in order to provide an alternative means of securing said internal and external bowl members, such a modification being a simple matter of design choice to one skilled in the art. Bazemore et al. further do not disclose that said cooling member is comprised of a perimeter wall that defines a plurality of compartments, including wall compartments arranged radially around a base compartment, each containing a gelatinous compound adapted for freezing. Spitler teaches a flexible thermal wrap that is used as a cooling member in a cooling jacket consisting of a perimeter wall that defines a plurality of compartments, including wall compartments 60 radially positioned

around a base compartment 60B, each compartment containing a chemical refrigerant, that may be a gelatinous compound, adapted for being frozen and used for chilling. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the container disclosed by Bazemore et al. to include a cooling member as taught by Spitler such that the walls and base of said cooling member are nested against the walls and base of said exterior bowl member respectively so that there is the added convenience in having an easily removable, self-contained cooling member.

8. Claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5345784 (Bazemore et al.) in view of US 3715895 (Devlin), US 4981234 (Slaughter), and US 5005374 (Spitler) as applied to claim 14, and further in view of US 181909 (Chinnock). The combination of Bazemore et al., Devlin, Slaughter, and Spitler demonstrated a food serving container comprised of an exterior bowl member, an interior bowl member, a cooling member located in between said bowl members, and a lid with an aperture and cover assembly, said lid being coupled to said interior bowl member, as already described above with regard to claim 14. The combination fails to disclose a means for selectively closing said serving aperture on said lid member, said means having a closed position and an open position as broadly recited by claims 17 and 18, and the combination fails to disclose the particular cover assembly recited by claims 19 and 20, specifically one comprising of nested hemispherical members. Chinnock teaches a cover assembly for an aperture, cap A, that is movable between a closed position and an open position, said open position permitting access through said aperture and said closed position selectively limiting access through said aperture. Cap

A comprises a dome member b and a shell member a, said dome member b being positioned over a portion of an aperture, said shell member a being pivotally coupled such that said shell member a is for selectively covering the portion of said serving aperture not covered by said dome member b, said shell member a being nested within said dome member b to permit access to said aperture when said shell member a is pivoted. Said dome member b and shell member a are substantially hemispherical in shape, said shell member a having a radius less than a radius of said dome member b such that said shell member is pivotable inside said dome member b when said shell member a is pivoted. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the lid member disclosed by Bazemore et al. with the cover assembly taught by Chinnock in order to provide a means for closing the serving aperture on said lid member such that undesirables (e.g. dust, germs, insects, spiders, etc.) would be prevented from contaminating the contents of the interior bowl member when the aperture is not in use. While any suitable cap known in the art (e.g. detachable flap or plug) could have been used for this purpose, Chinnock expressly teaches that the shell and dome covering offers the additional advantage of obviating the chance of misplacing a removable cap (see paragraph 7).

9. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 5345784 (Bazemore et al.) in view of US 5579946 (Rowan et al.). Bazemore et al. disclose a food serving container comprised of an exterior bowl member 16, an interior bowl member 12, a cooling member located in between said bowl members 16 and 12, and a lid member 14, said lid member 14 having a serving aperture 50, as already

described above with regard to claim 1. While said interior bowl member 12 is positioned within said exterior bowl member 16, Bazemore et al. fail to disclose that said interior bowl member is positionable completely within said exterior bowl member. Rowan et al. teach a similar container having a lid member 12, an interior bowl member 27, and an exterior bowl member 20 wherein said interior bowl member 27 is positionable completely within said exterior bowl member 20 (see particularly Fig. 2). It would have been obvious to one of ordinary skill in the art to have modified the container disclosed by Bazemore et al. such that the interior bowl member is positionable completely within said exterior bowl member, as taught by Rowan et al., because such a modification would have been mostly a matter of obvious design choice to one of ordinary skill in the art, and it could provide a slightly more compact design.

Response to Arguments

10. Applicant's arguments, filed 01 November 2004, with respect to the objection to the drawings have been fully considered and are persuasive. The objection to the drawings has been withdrawn.

11. Applicant's arguments with respect to claims 1-20 have been considered but are not persuasive in view of the new ground(s) of rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 2064411 (Brandstein): discloses a bowl and cover, the cover having a central aperture.

US 3810446 (Kightlinger et al.): discloses a bowl and cover, the cover having an aperture.

US 4163374 (Moore et al.): discloses a container having an inner cup and an outer cup with a refrigerant gel disposed in between, and further having a lid with an aperture.

US 5423194 (Senecal): discloses a chilled bowl with a cover with an aperture and means to close the aperture.

US 5701757 (Heverly): discloses a refrigerated food container comprising an outer pan, an inner pan, a freezable gel pack situated between the pans, and a lid.

US 6151910 (Hazen): discloses a liner for a container comprising a plurality of cooling packs.

US Des. 218697 (Angelakos): discloses an ice bucket with a cover assembly comprising a hemispherical sliding shell and dome.

US Des. 343058 (Allegre): discloses a container with a shell and dome cover assembly.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard L. Leung whose telephone number is 571-272-4811. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise L. Esquivel can be reached on 571-272-4808. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richard L. Leung
Examiner
Art Unit 3744

rll

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